

LAID ON DESKS 6/9/14
GOVERNMENT SERVICES & ADMINISTRATION

RESOLUTION NO. 2014172

RE: LOCAL LAW NO. ____ OF 2014, A LOCAL LAW PROVIDING FOR THE
ADOPTION OF DUTCHESS COUNTY SOLID WASTE MATERIALS
MANAGEMENT AND LICENSING RULES AND REGULATIONS

Legislators MICCIO, FLESLAND, SAGLIANO, JETER-JACKSON, and
STRAWINSKI offer the following and move its adoption:

WHEREAS, the Dutchess County Deputy Commissioner for Solid Waste Management, pursuant to Section 12.03(f) of the Administrative Code of the County of Dutchess, hereby recommends for adoption by the Dutchess County Legislature revised Solid Waste Materials Management Rules and Regulations for the handling, hauling and disposal of solid waste within the County, along with the source separation of recyclable materials and affixing penalties for the violation thereof, and

WHEREAS, the Deputy Commissioner for Solid Waste Management has advised that a Rules and Regulations Committee was formed comprised of herself, the County Attorney and Chief Assistant County Attorney and that these Rules and Regulations are a product of its consideration, and

WHEREAS, the Dutchess County Solid Waste Materials Management and Licensing Rules and Regulations are submitted herewith for adoption by local law, now therefore, be it

RESOLVED, that the previous Dutchess County Department of Solid Waste Management Rules and Regulations have been superseded by the Rules and Regulations adopted this day, and it is further

RESOLVED, that the Legislature of the County of Dutchess adopt Local Law No. _____ of 2014 which has been submitted this day for consideration by said Legislature.

CA-110-14 CAB/ca/G-1482 6/9/14 Fiscal Impact: None

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 7th day of July 2014, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 7th day of July 2014.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

LOCAL LAW NO. ____ of 2014

RE: A LOCAL LAW PROVIDING FOR THE ADOPTION OF THE DUTCHESS COUNTY SOLID WASTE MATERIALS MANAGEMENT AND LICENSING RULES AND REGULATIONS

BE IT ENACTED by the County Legislature of the County of Dutchess, State of New York as follows:

SECTION 1. LEGISLATIVE INTENT. This Legislature has been advised that the existing Solid Waste Management Rules and Regulations need to be updated so that enforcement of the licensing of Solid Waste haulers and source separation of recyclables can be strengthened.

SECTION 2. To the extent the provisions of Local Law No. 1 of 1984 entitled a Local Law Providing for the Management of Solid Waste Generated Within the County as amended and Local law No. 4 of 1990 entitled Providing for the Mandatory Collection and Disposition of Recyclables in Dutchess County, as amended are inconsistent with this Local Law, the provisions of this Local Law shall control.

SECTION #. EFFECTIVE DATE. This local law shall take effect immediately upon filing in the Office of the Secretary of State.

DUTCHESS COUNTY SOLID WASTE
MATERIALS MANAGEMENT AND LICENSING
RULES AND REGULATIONS

For the Management of Solid Waste Generated Within the County of Dutchess as authorized by
Section 12.03 of the Administrative Code of the County of Dutchess.

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A. Purpose. The purpose of these rules and regulations is to:

1. Effectuate the management on a county-wide basis of all Solid Waste generated within or coming in from outside the County of Dutchess in order to protect the public health and safety, to improve the environment by control of air, water and land pollution, to ensure that Solid Waste generated or to be disposed of within the County is Disposed of or Recycled in an environmentally safe and sound manner, to implement the County's state-approved Local Solid Waste Management Plan, *Rethinking Waste*, to carry out the expressed policy of the State of New York to displace competition with regulation or monopoly public service.;
2. Effectuate the mandatory Source Separation of Recyclable Materials to recover and reuse Recyclable Materials so as to conserve natural resources, reduce the impact of the cost of Solid Waste Disposal, ensure safe and efficient processing of Solid Waste, help maximally reduce the quantity of Solid Waste that must be Disposed of, and to comply with New York State General Municipal Law Section 120-aa, and;

Carry out the expressed policy of the Dutchess County Legislature to take steps to discourage or prevent the infiltration of the Solid Waste hauling industry by undesirable or possible criminal elements.

B. Definitions. As used in these rules and regulations, unless the context otherwise requires:

1. **"APPLICANT"** shall mean a Person submitting an application for a Solid Waste Disposal License pursuant to these rules and regulations.
2. **"COMPOSTING"** shall mean a controlled decomposition process which turns organic residuals, such as food scraps, biosolids and yard waste into a beneficial soil amendment.

3. **"CONSTRUCTION AND DEMOLITION DEBRIS (C&D)"** shall mean materials generated during the construction, renovation, and demolition of structures, buildings, roads, and bridges. C&D debris includes, but is not limited to, bulky, heavy materials, such as concrete, wood, metals, glass, and salvaged building components.
4. **"COUNTY OF DUTCHESS"** shall mean the entire County of Dutchess as constituted and existing under the Laws of the State of New York.
5. **"DEPUTY COMMISSIONER"** shall mean the Deputy Commissioner of the Dutchess County Department of Planning and Development, Division of Solid Waste Management.
6. **"DISPOSAL OF SOLID WASTE"** or **"DISPOSAL"** or **"DISPOSE"** shall mean collecting, transporting, storing, disposing, transferring, processing or delivering Solid Waste, including Recyclables, to a Solid Waste Management-Resource Recovery Facility.
7. **"ECONOMIC MARKET"** shall mean instances when the full avoided costs of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, transportation and sale of said materials less the amount received from the sale of said material.
8. **"ELECTRONIC WASTE OR E-WASTE"** shall mean all electronic waste, such as surplus, obsolete, broken, or discarded electrical or electronic devices, including but not limited to televisions, computer monitors, computer peripherals, electronic office equipment, telephones, and electronic entertainment devices.
9. **"EMERGENCY"** shall mean a situation when certain Solid Waste Management-Resource Recovery Facility(ies) in the County are not in operation, are unable to operate at normal capacity, or are otherwise unable to function pursuant to normal operating procedures as may

be determined by the Deputy Commissioner, or when conditions exist which may endanger the health or safety of the public or pose a significant risk of harm to the environment.

10. **“GENERATOR”** shall mean any Person that produces Solid Waste, including Recyclable materials.

11. **“HAULER”** shall mean any Person, other than a Municipality, who Disposes of Solid Waste and is required to have a Solid Waste Disposal License issued by the Deputy Commissioner.

Haulers include Persons who:

- a) Have Solid Waste collection routes;
- b) Provide body mounts, including roll-off containers, dumpsters, trailers, and any other container in conjunction with the Disposal of Solid Waste;
- c) Provide for the Disposal of Solid Waste, such as a Hauler whose business is to Dispose of Solid Waste from residential, commercial, construction or industrial sites;

12. **“HAULER/EXEMPT”** refers to Persons whose Disposal of Solid Waste is solely limited to the Disposal of one of the materials listed below and is exempt from the Solid Waste Disposal License requirement:

a) New York State Department of Environmental Conservation (DEC) regulated waste Solid Waste transporters covered under New York State Part 364 Waste Transporter Permits and as may be amended from time to time. Regulated waste includes:

- residential septage
- residential raw sewage or portable toilet waste
- non-residential raw sewage or sewage contaminated waste
- sewage sludge (biosolids)

- water treatment plant residuals
- grease trap waste
- waste oil, yellow grease or oil, or petroleum contaminated soil
- waste tires
- asbestos waste
- low level radioactive waste (LLRW)
- low level radioactive waste mixed with hazardous waste
hazardous industrial/commercial waste
- regulated medical waste or other biohazard waste
- other industrial/commercial waste (e.g., including but not limited to oil & gas well
drilling fluids, pharmaceutical waste, rendering waste, waste from household
hazardous waste collection events)

b) Haulers of Solid Waste which has been collected from a site(s) outside of the County of Dutchess and is intended for Disposal at a site(s) outside the County.

13. **“HOUSEHOLD HAZARDOUS WASTE”** shall mean leftover household products that contain corrosive, toxic, ignitable or reactive ingredients such as cleaners, oils or pesticides.

14. **“LICENSE”** shall mean the Dutchess County Solid Waste Disposal License.

15. **“LICENSEE”** shall mean a Hauler who holds a Dutchess County Solid Waste Disposal license.

16. **“MULTI-DOMICILE BUILDING”** shall mean a building or structure that is designed to house several different occupants in separate housing units. The most common example of multi-domicile housing is an apartment building. Duplexes, quadruplexes, and townhomes

are also multi-domicile housing. The entire building or structure may be owned by an individual, as is the case with condominiums, or by individuals who have purchased units.

17. **"MULTI-TENANT BUILDING"** shall mean a group of commercial establishments managed as a single entity; each occupied and operated by a tenant or renter of such premises.

18. **"MUNICIPALITY"** shall mean any county, city, town, village, school district, improvement district (or a county, city, town or village acting on behalf of an improvement district), public authority, public corporation, municipal corporation or political subdivision.

19. **"PERSON"** shall mean any natural person, individual, partnership, co-partnership, association, owner or manager of a business, commercial or industrial establishment, joint venture, corporation, trust, estate or any other legal entity recognized by the laws of the State of New York inclusive of a Municipality or any other Waste Generator.

20. **"PRINCIPAL"** shall mean, as to an Applicant which is a sole proprietorship, the proprietor; a corporation, every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation; a partnership, all the partners; and if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more in the Applicant; and with respect to all business entities, all other persons participating directly or indirectly in the control of such entity. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "principal" shall also include the partners of such partnership, or the officers, directors, and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter:

a. An individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for:

I. such individual;

II. the spouse of such individual other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled;

III. the children, grandchildren and parents of such individual; and

IV. a corporation in which any of such individual in the aggregate owns fifty percent or more in value of the stock of such corporation;

b. A partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and

c. A corporation shall be considered to hold stock in a corporation that is an Applicant as defined in this section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the Applicant corporation.

21. **"RECYCLERS"** shall mean those who deal with recyclable material both as collectors, separators and marketers. This definition shall include not-for-profit corporations and charitable corporations which collect recyclables for fund raising purposes.

22. **"RECYCLING" or "RECYCLED" or "RECYCLABLE"** shall mean any process by which materials, are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

23. **"RECYCLABLE MATERIAL"** shall mean material that can be recovered and turned into a new product. Recyclable materials include:

a. All paper;

b. All cardboard;

- c. All glass, excluding ceramics, window or automobile glass, mirrors and light bulbs;
- d. All plastic;
- e. All metals;
- f. All bulk metals, excluding metal containers utilized to store flammable or volatile chemical materials, such as fuel tanks;
- g. All recoverable Construction and Demolition debris, such as uncontaminated concrete, asphalt, asphalt shingles, gypsum wallboard, wood, and metals;
- h. Electronic waste or Ewaste;
- i. All garden and yard waste, such as grass clippings, leaves, and cuttings from shrubs, hedges, trees, brush and garden debris;
- j. All food waste;
- k. Textiles.

24. **"REGULATED RECYCLABLE MATERIALS"** shall mean materials designated by the Deputy Commissioner to be Source Separated by all Persons and include, but are not limited to:

- a. All paper and cardboard;
- b. All glass, excluding ceramics, window or automobile glass, mirrors and light bulbs;
- c. All plastic, excluding plastic bags, plastic film and Styrofoam®;
- d. All metals, excluding scrap metal; and
- e. Any other materials as may be designated by the Deputy Commissioner.

25. **"RRA"** shall mean the Dutchess County Resource Recovery Agency created under Chapter 675 of the Laws of 1982 of the State of New York, as amended.

26. **"SOLID WASTE"** shall mean any discarded materials. Solid wastes can be solid, liquid, semi-solid or containerized gaseous material. This includes durable goods, non-durable goods, recyclable materials, containers and packaging, food wastes and yard trimmings, and miscellaneous inorganic wastes generated.
27. **"SOLID WASTE MANAGEMENT-RESOURCE RECOVERY FACILITY"** shall mean any facility, plant, works, systems, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is used, occupied or employed for the collecting, receiving, transporting, transfer, storage, processing or Disposal of Solid Waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, Recycling Centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of Section 51-0903 of the Environmental Conservation Law of the State of New York.
28. **"SOURCE SEPARATION"** means the segregation of Recyclable Materials from Solid Waste at the point of generation by the Generator for the purposes of Recycling.
29. **"STATE"** shall mean the State of New York.
30. **"UNCONTAMINATED"** shall mean free of materials that are not Recyclable or free of materials that, if present, either reduce the value of a Recyclable material or render it unrecyclable.
31. **"YARD WASTE"** shall mean grass clippings, leaves, and cuttings from shrubs, hedges, trees, brush and garden debris.

32. **“VEHICLE”** means any motor vehicle, trailer, water vessel, railroad car, airplane or other device for transporting Solid Waste.

33. **“WASTE GENERATOR”** means any Person who generates Solid Waste.

C. General Powers – Deputy Commissioner

1. The Deputy Commissioner shall recommend for adoption by the County Legislature rules and regulations for the handling, hauling and disposal of Solid Waste within the County of Dutchess and affixing penalties for the violation thereof. The Deputy Commissioner is authorized to amend these rules and regulations consistent with the policy established through these Rules and Regulations but is not authorized to decrease or increase any fines or penalties or the amounts thereof for any violations of these rules and regulations without specific authorization and approval from the County Legislature. The Deputy Commissioner shall consult with the Dutchess County Resource Recovery Agency in the development of these rules and regulations to ensure compatibility.

2. Whenever the Deputy Commissioner is empowered to or charged with the responsibility to do or perform an act, a designee may perform such act in the Deputy Commissioner's place.

3. The Deputy Commissioner is authorized to:

a. Require that all Haulers of Solid Waste be licensed per the requirements of these regulations.

b. Issue subpoenas.

c. Administer oaths to witnesses.

d. Prescribe and impose penalties for violation of these rules and regulations.

e. Authorize necessary action to alleviate emergencies and/or public nuisances in the event that a Person, Hauler, or Municipality fails to respond to such situations.

- f. Change issued license conditions, such as designated facilities, quantities to be Disposed, and vehicular specifications in situations of emergency or other situations as may be warranted to fulfill the Deputy Commissioner's obligations.
- g. Randomly inspect and monitor vehicles and inspect the Licensee's premises and equipment for the purpose of ascertaining compliance with these rules and regulations.
- h. In addition to the administrative enforcement proceedings referred to herein, maintain and defend actions in law or equity in any court of competent jurisdiction.

D. Use of Disposal Facilities.

No Person, Hauler or Municipality shall Dispose of Hazardous Waste, as defined in New York State Department of Environmental Conservation regulations, at any Solid Waste Management Resource Recovery Facility in the County.

E. Source Separation Provisions.

1. All Haulers operating in the County of Dutchess must provide collection services for both Solid Waste and Regulated Recycling for all Persons.
2. Every Waste Generator in Dutchess County shall be responsible for the Source Separation of Solid Waste and Regulated Recyclables Materials at the point of generation. Waste Generators shall Source Separate additional materials designated as Recyclables by a local municipality pursuant to § 120-aa of the General Municipal Law, if that municipality provides or causes to be provided collection of such materials for the Waste Generator or a location within that municipality for delivery of such materials by the Waste Generator.
3. Each Waste Generator shall provide for the removal of those separated Regulated Recyclables which the Waste Generator is required to Source Separate pursuant to subsection "2" above from the property on which they are generated either through service provided by a Municipality or by a Licensed Hauler, or by taking these materials directly to a Recyclables

transfer, storage or processing location. Recyclables shall not be disposed of at the facility operated by the RRA.

4. Each Waste Generator shall be required to prepare those Regulated Recyclables which the Waste Generator is required to Source Separate pursuant to subsection "2". above, according to any ordinance, regulation or rule of the Municipality that provides Recyclables collection services to that Waste Generator, or if such collection services are provided by a Hauler, then according to the directions of the Hauler. If a Waste Generator utilizes direct haul, Recyclables shall be prepared in the manner prescribed by the recyclables transfer, storage or processing facility to which the Waste Generator delivers such materials.

5. In the case of Multi-Tenant buildings or Multi-Domicile buildings and complexes, the owner or manager of such building is responsible to provide the following: appropriate container(s) either directly or indirectly through their hauler to hold Source Separated Regulated Recyclable Materials for the entire building(s) separate from the container(s) where the building's non-Regulated Recyclable Solid Waste is stored and a mechanism for Disposal of Source Separated Regulated Recyclable Materials. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the Recycling container(s). It shall be the tenant's responsibility to separate designated Regulated Recyclable Materials from the Solid Waste and deposit the Regulated Recyclable Materials in the container(s) provided.

6. Nothing in this chapter shall be construed to prohibit private composting of garden, yard, and food scrap waste by a Waste Generator on the Waste Generator's own property.

F. Solid Waste Disposal Licensing of Haulers.

1. It is unlawful for any Hauler to Dispose of any Solid Waste unless such Hauler is licensed in accordance with the provisions of these regulations.

2. All Haulers of Solid Waste who seek to Dispose of Solid Waste within the County of Dutchess shall apply to the Deputy Commissioner for a License. Applications shall be submitted on forms prescribed by the Deputy Commissioner. Applicants must be able to comply with these Rules and Regulations. An application and all accompanying documentation shall be deemed to be submitted under oath, subject to penalties of perjury.

3. The Deputy Commissioner shall charge a licensing fee as provided for in the adopted annual budget of the County of Dutchess.

4. The term of the license will be two years, from February 1 to January 31 biennially.

5. The fee for a License is based on the number of power units used to Dispose of Solid Waste. For the purposes of these regulations, a power unit is defined as the control and pulling vehicle.

6. If during the term of the license the number of power units change, causing an increase in the licensing fee, the Hauler is required to pay the pro-rated difference based on the monetary change and the number of months remaining on the biennial license. Fees will not be refunded for a decrease in the number of power units.

7. Vehicle Permit Stickers:

- a) Will be issued with the License, based on the number of power units of the Hauler;
- b) Vehicle permit stickers for licensed Haulers are valid for one year;
- c) All power units must have a current and valid vehicle permit sticker affixed to the left side of the power unit.

8. On vehicles where the engine and body mount are not on the same chassis, the body mount must have a business name and contact number. Body mounts include roll-off containers, dumpsters, trailers and any other container used to Dispose of Solid Waste. Both the power unit and the body mount must have a business name and contact number of the Licensee.

9. Annual MSW Report:

- a) An Annual MSW Report Form is required by January 31st every year and will reflect collection data from January 1 to December 31 of the previous year. The annual report will allow the County of Dutchess to properly gauge the volume and nature of its solid waste stream, including where waste is Disposed of and the volume of Recyclables recovered. The report will allow the County of Dutchess to evaluate the effectiveness of its Solid Waste Management Plan and comply with annual reporting requirements of the New York State Department of Environmental Conservation;
- b) Any Hauler who fails to provide a completed Annual MSW Report Form by January 31st of each year will be subject to a civil penalty of up to \$500.00 and the loss of the License.

10. No Applicant or Licensee which has been denied a license or has had its license revoked may reapply within six months of the denial or revocation.

11. All materials submitted on an application, the disclosure of which would in Applicant's opinion constitute an unwarranted invasion of personal privacy or result in substantial injury to the competitive position of the Applicant shall be marked "Proposal Confidential" prior to submission to the Deputy Commissioner. If a Freedom of Information request for such materials is received by the Deputy Commissioner, the Applicant/Licensee will be notified of the request. If such materials are proposed to be released by the Deputy Commissioner, the Applicant/Licensee will be mailed notice five days before such release. The Deputy Commissioner makes no representation that materials submitted as "Proposal Confidential" will not be disclosed pursuant to the Freedom of Information Law. Applicants and Licensees are further advised that the Deputy Commissioner will, without notice to them, comply with all subpoenas and process, and will forward all information received or gathered to the appropriate authorities.

12. All of the Applicant's drivers must be properly licensed and all vehicles must be registered with the appropriate Motor Vehicles Department and properly insured.

13. All applicants must be able to comply with the Insurance requirements as outlined in the License application.

14. Each Applicant shall provide the Deputy Commissioner with a business address with the understanding that this address shall be used by the Deputy Commissioner for the purpose of serving process and notices upon the Applicant. It shall be the responsibility of the Applicant to advise the Deputy Commissioner in writing of any change in address and the Deputy Commissioner shall not be responsible for the improper service of process and notices due to Applicant's failure to mention an updated address where notices may be delivered and legal process served.

15. By applying, the Applicant and each of its Principals authorizes the Deputy Commissioner to independently investigate their character and fitness, which authorization includes the authority to obtain copies of all relevant records, whether otherwise privileged or not, and to obtain copies of all criminal history, legal and administrative records. An Applicant and each of its Principals shall execute and deliver to the Deputy Commissioner all necessary consents and waivers needed to conduct such investigations and obtain such records. The independent investigation will be conducted by a private investigative firm under contract with the County of Dutchess. The Applicant shall submit a check for the cost of the private investigation with its application.

16. Where, as a result of the investigation of an Applicant, it appears that an employee of the Applicant may not qualify for a License, or that further investigation is warranted, the Deputy Commissioner may conduct an additional investigation of such employee and may require, if necessary, that the Applicant and such employee provide information updating, supplementing or explaining information previously submitted;

17. A supplemental investigation may be required in the event the independent investigative report indicates issues or concerns that need to be investigated further. If a supplemental investigation is deemed necessary by the Deputy Commissioner, the Applicant is responsible for paying the cost of such investigation prior to the commencement of the supplemental private investigation.

18. The Applicant and all Principals shall be fingerprinted as per instructions found in the License application.

19. In the case of an Applicant which is managed, operated or otherwise affiliated with another entity, fingerprinting and disclosure under this section may also be required of any persons who have direct management supervisory responsibility for the operations or performance of the Applicant.

20. The Applicant is responsible for all costs associated with the application fee, background investigation fee, supplemental investigation fee, and fingerprinting fee.

21. Applications are not deemed complete until all fees and expenses have been paid and all necessary materials submitted.

22. The license and the privileges granted are exclusively personal in nature and are not transferable without the consent of the Deputy Commissioner. The Licensee may not assign, convey, sell, transfer (including but not limited to an attempt to the transfer of the license pursuant to a sale or transfer of all or a part of the Licensee's assets) or otherwise dispose of the license without such consent. Any attempted transfer of the license or any rights granted without the express written consent of the Deputy Commissioner is void. Any such assignment shall not relieve the Licensee of its obligations hereunder.

G. Refusal to Issue a Solid Waste Disposal License.

The Deputy Commissioner may, after notice and the opportunity to be heard, refuse to issue a License to an Applicant who fails to meet the criteria for licensing under these rules. Such notice shall specify the reasons for such refusal. The license application fee will be forfeited, and no refund given for fingerprinting and private investigation fees expended. In making such determination, the Deputy Commissioner may consider, but is not limited to:

1. Failure to provide all the information and/or documentation required by the Deputy Commissioner pursuant to these rules or who has otherwise failed to demonstrate eligibility for such license under these rules and regulations within sixty days of initial application;
2. Failure by such Applicant and/or its Principals to provide complete or truthful information and/or answers to questions asked in connection with the application;
3. A pending indictment or criminal action against such Applicant or any of its Principals for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such Applicant or any of its Principals is a party and which directly relates to the Applicant's ability to conduct the business or perform the work for which the license is sought, in which cases the Deputy Commissioner may defer consideration of an application until any pending matter has been concluded, and/or a decision has been reached by the court or administrative tribunal before which such action is pending;
4. Conviction of such Applicant or any of its Principals for a crime which, considering the factors set forth in section seven hundred fifty-three of the NYS Correction Law, would provide a basis under such law for the refusal of such license;

5. A finding of liability in a civil or administrative action that bears a direct relationship to the Applicant or any of its Principals' ability to perform or to conduct the business for which the license is sought;
6. Conviction of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. Section 1961 et seq) or of an offense listed in subdivision one of section 460.10 of the NYS Penal Law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;
7. Having been a Principal within the previous ten (10) years from date of application in a predecessor waste business, where the Deputy Commissioner would be authorized to deny a license to such predecessor business pursuant to this subdivision;
8. Failure to pay any tax, fine, penalty, or fee related to the Applicant's business for which liability has been admitted by the person liable therefore, or for which judgment or a lien has been entered by a court or administrative agency or tribunal of competent jurisdiction.
9. Applicant was previously issued a Dutchess County Solid Waste Disposal License pursuant to these rules and regulations and such license was revoked within ten (10) years of date of application;
10. Applicant was denied or had a license revoked within the previous ten (10) years from the date of application in another jurisdiction;
11. Applicant employs any person, or engages as an agent, any person whom the Deputy Commissioner has determined is unqualified to hold a license following a background investigation conducted pursuant to these rules and regulations.

12. Applicant has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license pursuant to these rules.

H. Licensee Changes.

1. A Licensee shall inform the Deputy Commissioner **within five (5) business days** of all changes as listed below:

- a) The addition or deletion of a vehicle;
- b) Insurance carrier or coverage changes.

2. A Licensee shall inform the Deputy Commissioner **within twenty (20) business days** of all changes as listed below:

- a) Changes in ownership of the Licensee;
- b) The addition or deletion of any Principal;
- c) Change in corporate status;
- d) All arrests and or criminal convictions of Licensee and any Principal of the Licensee;
- e) All liens, suits and administrative proceedings relating to the operation of the Licensee's business; or
- f) Any other material change in the information submitted on the application for a license.

3. If notification of change, as outlined above, is not received within the time frame stated the License may be subject to suspension.

4. Changes in ownership of a Licensee requires a new application, background investigation and fingerprinting of the new Principal(s). The addition of a new Principal(s) requires the completion of Section H, Disclosure Information for Principals & Applicants of the License application, a background investigation and fingerprinting of the new Principal(s).

5. If after review, and after notice and the opportunity to be heard, the Deputy Commissioner determines that such new Principal fails to meet the criteria for licensing under these rules the License may be suspended or revoked unless such new Principal divests his or her interest, or discontinues his or her involvement in the business of such Licensee, as the case may be.

I. Solid Waste Disposal License Renewals.

1. The license term is from February 1st to January 31th biennially.
2. Licensed Haulers are required to submit the following for license renewal by January 1st prior to the expiration of the License term;
 - a) Solid Waste Disposal Relicensing Affidavit;
 - b) Details of any changes, per Section "H" above, if applicable;
 - c) Licensing fee as provided for in the adopted annual budget of the County of Dutchess;
 - d) Vehicle Information Form. The number of vehicle permit stickers issued and the fee is dependent on the number of power unit vehicles listed;
 - e) Renewal Checklist.
3. A License or the required vehicle permit stickers will not be issued until payment and all required documents have been received and approved by the Deputy Commissioner.
4. If the affidavit indicates any changes as listed in Section H above, a background investigation and fingerprinting may be required.
5. Licensed Haulers are required to fill out a full application and have a private investigation conducted, at the Licensee's expense, every third renewal.

J. Revocation, Suspension or Denial of Renewal of a Solid Waste Disposal License:

The Deputy Commissioner may, after notice and the opportunity to be heard, suspend, revoke or deny renewal of a license and notify the Solid Waste Management-Resource Recovery Facilities located in Dutchess County of such suspension, revocation or denial if a Hauler:

1. Does not comply with these Rules and Regulations;
2. Is found to have submitted a false or materially incomplete application;
3. If facts are disclosed, whether they existed before or after the License was issued, which would have warranted a refusal to issue a license;
4. Has an outstanding balance of \$2,500 or more for tipping fee charges due to the Dutchess County Resource Recovery Agency for a period exceeding six (6) months. The suspension will be lifted upon notification that the outstanding balance has been paid in full. Failure to pay the outstanding balance within three (3) months of the suspension will lead to a revocation of the License; or
5. Failure to pay any tax, fine, penalty, or fee related to the Applicant's business for a period exceeding six (6) months, for which liability has been admitted by the person liable, or for which judgment or a lien has been entered by a court or administrative agency or tribunal of competent jurisdiction. The suspension will be lifted upon notification that the tax, fine, penalty, or fee has been paid in full. Failure to pay the tax, fine, penalty, or fee within three (3) months of the suspension will lead to a revocation of the License.
6. Failure to pay any civil penalty due to the County of Dutchess prior to the January 1st deadline for License renewal.

K. Vehicle and Container Requirements.

1. Collection and transport vehicles shall conform to New York State Vehicle and Traffic Law as described for a motor vehicle and to New York State Department of Environmental Conservation waste transporter specifications.
2. All Recyclables collection containers, bins, and dumpsters shall be clearly labeled as to the type of material the container, bin, or dumpster accepts.
3. All collection containers, bins, or dumpsters shall be easily accessible to residents, employees and Haulers.

L. Enforcement

Formal Hearings

1. The Deputy Commissioner may hold a formal hearing on any application, complaint, circumstances, or alleged violation of these rules and regulations.
2. A formal hearing shall be on due and adequate notice to the person, persons or entity concerned and shall be set down for a day certain, unless a person charged with a violation of these rules and regulations admits liability by returning the Notice of Violation with payment of the proposed penalty and by signing the admission of liability on said notice.
3. All hearings conducted shall follow the prescriptions of Article 3 of the New York State Administration Procedure Act and the local rules set forth below.
4. The Notice of Hearing shall set forth:
 - (a) The time and place of the hearing
 - (b) The purpose of the hearing
 - (c) The charges and violations complained of, with specific reference to provisions and sections these rules and regulations.
 - (d) The right to present evidence
 - (e) The right to examine and cross-examine witnesses
 - (f) The right to be represented by counsel
5. All adjudicatory hearings held hereunder shall be closed and conducted in private unless the respondent elects for the hearing to be open and conducted in public.
6. On the return day of the hearing:
 - (a) The hearing officer shall note the appearance of the persons attending the hearing.
 - (b) Witnesses shall be sworn and testimony shall be recorded.
7. The hearing officer shall thereafter prepare findings of fact, conclusions of law, and recommendations upon which the Deputy Commissioner shall make a formal order setting forth the determination, conditions, if any, to be complied with and civil penalties, if any.

8. The Order of the Deputy Commissioner, following a formal hearing, shall be filed in the office of the Division of Solid Waste Management and served on the Respondent.

9. Nothing herein contained shall preclude the Deputy Commissioner from taking any action in addition to the formal hearing herein provided for, as may be prescribed by law, nor shall the Deputy Commissioner be precluded from taking such other action by virtue of the order made pursuant to this Section.

10. Prior to adjudication, the Deputy Commissioner may settle any charges of a violation of these rules and regulations on such terms and conditions acceptable to the Deputy Commissioner.

Service of Order and/or Notice of Hearing

Unless otherwise expressly provided by law, service of an order and/or notice of hearing shall be made as follows:

1. Enclosing the order and/or notice in a post-paid envelope directed to the person or persons concerned at the address last known to the Division of Solid Waste Management and depositing such envelope at a United States Post Office or in a mail box or mail chute maintained by the United States Post Office; or

2. Leaving the order and/or notice with the person concerned; or, if the person is not an individual, with a member of the partnership or other group concerned or with an officer of the corporation or person in charge of the office or premises; or

3. Posting the order and/or notice at the entrance door of the office of the respondent.

Hearing appearances

1. At any hearing conducted pursuant to these rules and regulations, any party to the proceedings may appear personally and with counsel and shall be given the opportunity to produce evidence and witnesses and to cross-examine witnesses.
2. At any formal hearing conducted pursuant to these rules and regulations, if a party shall appear without counsel, the hearing officer shall advise such party of his right to counsel; and that, if he desires to proceed without counsel, he may call witnesses, cross-examine witnesses and produce evidence in his behalf.
3. Appearances shall be noted on the official record of Hearings.

Hearing adjournments

1. The hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time but shall be set down for a day certain.
2. If an adjournment is requested in advance of the hearing date, such request shall be submitted to the hearing officer in writing and shall specify the reason for such request.
3. In considering an application for adjournment, the hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

Subpoenas

The Deputy Commissioner or the designated hearing officer may issue subpoenas upon request of any party to the proceedings of any formal hearing set down by the Deputy Commissioner.

Hearing Procedures

1. The hearing officer shall not be bound by the rules of evidence in the conduct of a hearing but the determination shall be founded upon sufficient factual evidence to sustain it.
2. Proof may be adduced with respect to ongoing violations occurring up to and through the date of the hearing, when these violations are sufficiently similar to those charged to put the Licensee on notice of the nature of the violation.
3. Upon the conclusion of a hearing, the Deputy Commissioner shall take such action upon such findings, determinations and recommendations as he/she deems proper and shall execute an order carrying such findings and determinations into effect.
4. The action of the Deputy Commissioner may include the assessment of civil penalties
5. An order of suspension or revocation of a Solid Waste Disposal License may contain such provisions as to renewal or reinstatement as the Deputy Commissioner may direct.
6. The Deputy Commissioner may direct a re-hearing or require the taking of additional evidence and may rescind or affirm a prior determination after such re-hearing.
7. The record of a formal hearing including the testimony of witnesses shall be made available to all parties for examination at the office of the Division of Solid Waste Management.
8. Copies of the record of a formal hearing including a transcript of the testimony of witness(es) may be purchased at the rate per page covering the cost thereof.

Administrative penalties for violation

1. Any Person who violates any provision of these rules and regulations pertaining to the licensing of Haulers shall be subject to the imposition of a civil penalty by the Deputy Commissioner as follows:

(a) For the first violation, up to 500.00.

(b) For the second violation, up to \$1000.00.

(c) For a third and succeeding violations, up to \$2000.00.

2. Any person who violates any provision of these rules and regulations pertaining to Source Separation of Recyclables shall be subject to the imposition of a civil penalty by the Deputy Commissioner as follows:

(a) For the first violation, up to \$250.00.

(b) For the second violation, up to \$500.00.

(c) For the third violation and succeeding violations, up to \$1,000.00.

3. The civil penalty provided for in this Section may be sued for and recovered by the Deputy Commissioner in the proper court of jurisdiction in addition to any other expenses incurred by the County.

4. Each day or a part of a day on which a violation or failure continues shall constitute a separate violation.

Enforcement other than by prosecution

1. The Deputy Commissioner of his/her designee may seek to obtain voluntary compliance with these rules and regulations by way of notice, warning or educational means in the first instance.

2. This Section shall not be construed to require that such non-compulsory methods must be employed or attempted before proceeding by way of compulsory or other legally prescribed procedures.

M. Intermunicipal Agreements.

The Deputy Commissioner may enter into intermunicipal agreements with those municipalities having control over Solid Waste collection, that is, those offering municipal collection or private collection through municipal contracts. Intermunicipal agreements will obligate involved municipalities to deliver any amount of waste allocated by the Deputy Commissioner to designated facilities.

N. Survival.

If any portion of these rules and regulations are held by a court of competent jurisdiction to be unconstitutional or invalid to the extent that they are not held unconstitutional or invalid, they shall continue in full force and effect.

Dutchess County Division of Solid Waste Management

These rules and regulations become effective _____.

MARCUS J. MOLINARO
COUNTY EXECUTIVE



EOIN WRAFTER, AICP
ACTING COMMISSIONER

LINDSAY CARILLE
DEPUTY COMMISSIONER

COUNTY OF DUTCHESS

DEPARTMENT OF PLANNING AND DEVELOPMENT
DIVISION OF SOLID WASTE MANAGEMENT

MEMORANDUM

TO: Michael Kelsey, Legislator

FROM: Lindsay Carille, Deputy Commissioner *LC*

DATE: June 25, 2014

SUBJECT: Solid Waste Management – Rules and Regulations

Thank you for meeting with James Fedorchak, Carol Bogle, Catherine Durland, and me to discuss your concerns with the proposed changes to the rules and regulations. As discussed, so as to not delay the adoption of the Local Law and the ability to actively enforce the rules and regulations, the changes below will be added as an amendment before the end of 2014.

- In Section A. Purpose, subsection 1, the title of the current ten-year Local Solid Waste Management Plan, *Rethinking Waste*, will be deleted;
- In Section C. General Powers – Deputy Commissioner, subsection 1, the second sentence will be changed to add the wording, “and the Local Solid Waste Management Plan.” The sentence will read, “The Deputy Commissioner is authorized to amend these rules and regulations consistent with the policy established through these rules and regulations and the Local Solid Waste Management Plan but is not authorized to decrease or increase any fines or penalties or the amounts thereof for any violations of these rules and regulations without specific authorization and approval from the County Legislature.
- In Section C. General Powers – Deputy Commissioner, subsection 1, the following sentence will be added, “The Deputy Commissioner shall conduct an educational outreach program prior to the implementation of any substantive changes to the rules and regulations.”

c. William F.X. O’Neil, Deputy County Executive
Michael A. Ellison, Assistant County Executive
James M. Fedorchak, County Attorney
Carol Bogle, Chief Assistant County Attorney
Robert G. Rolison, Chairman of the Legislature
Catherine Durland, Legislative Assistant to the Chairman
Carolyn Morris, Clerk of the Legislature

units in the preparation of and development of information for their respective capital project requests, where such assistance is requested.

Section 12.02. Planning Board; Appointment; Officers; Meetings.

Each member of the County Planning Board shall continue to hold office for the balance of his respective term, at the conclusion of which the applicable appointive provisions of the Charter and this Code shall become effective. Members of the advisory Planning Board shall be appointed in the manner and for the term provided in Section 12.03 of the Charter. The advisory Planning Board shall elect annually a chairman, vice-chairman and a secretary from among its members. Meetings of the advisory Planning Board shall be held at least quarterly at the call of the Chairman of such Board, or the Commissioner of Planning and Development, on three (3) days written notice mailed to the last known address of such Board members. Vacancies in the membership of said Board occurring otherwise than by expiration of term shall be filled by appointment of the County Executive, for the unexpired term.

Section 12.03. Solid Waste Management.⁷¹

The Commissioner of Planning and Development shall have the authority to administer solid waste management for the County of Dutchess and toward that end may delegate the following responsibilities to the Deputy Commissioner for Solid Waste Management:

- (a) Responsibility for the development and implementation of the Local Solid Waste Management Plan as adopted by the County of Dutchess as the Planning Unit;
- (b) Supervision of the issuance of permits and licenses as may be required of haulers and such other commercial enterprises engaged in the business of the collection and sanitary disposal of solid waste, recycling and composting within the County;

(c) Have jurisdiction, administer, maintain, manage and exercise direction and control over any solid waste management facilities which the County may own, operate or manage;

(d) Be responsible for regularly providing the County Executive with an economic analysis of the cost to the County of the management of solid waste with appropriate recommendations regarding the same;

(e) Supervise such employees as may be hired by the County to facilitate the acceptance, hauling, processing and disposing of solid waste generated within the County;

(f) Recommend for adoption by the County Legislature such rules and regulations for the handling, hauling and disposal of solid waste within the County and affixing penalties for the violation thereof;

(g) Be responsible for and have the duty of maintaining liaison with all County, State and Federal Agencies and for the compliance with all rules and regulations of such agencies in reference to the disposal of solid waste within Dutchess County.

37 Article VIII, Department of Planning and Development, amended by Resolution No. 135 of 1993, that all references to the "Department of Planning" or "Commissioner of Planning" shall read "Department of Planning and Development" or "Commissioner of Planning and Development." Local Law No. 4 of 1993.

47 Article VIII, Planning and Development, Department of renumbered XII by Resolution No. 195 of 1997. Local Law No. 6 of 1997.

71 Article XII, Department of Planning and Development, amended by Resolution No. 2013088, Local Law No. 4 of 2013.

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
~~City~~ of Dutchess
~~Town~~
~~Village~~
Local Law No. 1 of the year 19 84

A local law Providing for the Management of Solid Waste Generated Within
The County of Dutchess (Insert title)

Be it enacted by the Dutchess County Legislature of the
(Name of Legislative Body)

County
~~City~~ of Dutchess as follows:
~~Town~~
~~Village~~

SECTION 1. Short Title. This Local Law shall be known and may be cited as the solid waste management law.

SECTION 2. Purposes. This Local Law is adopted pursuant to Chapter 675 of the Laws of 1982 of the State of New York for the purpose of (1) effectuating the management on a county-wide basis of all solid waste generated within or coming into from outside of the County of Dutchess in order to protect the public health and safety and to improve the environment by control of air, water and land pollution, and (2) carrying out the expressed policy of the State to displace competition with regulation or monopoly public service.

SECTION 3. Definitions. As used or referred to in this Local Law, unless the context otherwise requires:

1. "Agency" shall mean the Dutchess County Resource Recovery Agency created under Chapter 675 of the Laws of 1982 of the State of New York.
2. "Commissioner of Solid Waste Management" shall mean the Commissioner of Solid Waste Management of the County of Dutchess.
3. "County of Dutchess" shall mean the entire County of Dutchess as constituted and existing under the Laws of the State of New York.
4. "Disposal of Solid Waste" shall mean the transporting or delivery of solid waste to a solid waste facility.
5. "Municipality" shall mean any county, city, town, village, improvement district (or a county, city, town or village acting on

(If additional space is needed, please attach sheets of the same size as this and number each)

behalf of an improvement district), public corporation, municipal corporation, political subdivision, government agency, department or bureau of the state or federal government.

6. "Person" shall mean any natural person, individual, partnership, co-partnership, association, joint venture, corporation form, trust, estate or any other legal entity inclusive of an "municipality."
7. "Solid Waste" shall mean all materials or substances discarded or rejected within the County of Dutchess as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including, but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the United States Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the Commissioner of Environmental Conservation pursuant to Section 27-0903 of the Environmental Conservation Law of the State of New York.
8. "Solid Waste Management-Resource Recovery Facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for the collecting, receiving, transporting, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of Section 51-0903 of the Environmental Conservation Law of the State of New York.

SECTION 4. Disposal of Solid Waste. The Commissioner of Solid Waste Management is hereby authorized and directed to designate in writing, from time to time, one or more solid waste management-resource recovery facilities to be used for the disposal of solid waste generated within the County of Dutchess, which designation may include a determination that a particular solid waste management-resource recovery facility shall be the only facility used for the disposal of solid waste generated within all of, or a described area within, the County of Dutchess or by a particular person or persons.

In making any such designation the Commissioner of Solid Waste Management shall give due consideration to the capacity of any facility so designated, the size and population of the area or person or persons to be served and such other factors as shall enable the Commissioner of Solid Waste Management to determine that the public interest is served by such designation. No person shall dispose of solid waste generated within or coming into from outside of the County of Dutchess, except at a solid waste management-resource recovery facility designated by the Commissioner of Solid Waste Management in accordance with this Section. The Commissioner of Solid Waste Management is hereby authorized and directed to promulgate such rules and regulations as he shall determine to be necessary to effectuate the purposes of this local law, including the requirement that all private haulers of solid waste be licensed by the Commissioner of Solid Waste Management. All acts and proceedings taken by the Commissioner of Solid Waste Management pursuant to this local law shall, in all respects, be consistent with the Environmental Conservation Law and other applicable laws and rules and regulations promulgated pursuant thereto.

SECTION 5. Enforcement. It shall be the responsibility of the Commissioner of Solid Waste Management, in consultation with the County Attorney, to enforce the provisions of this local law and all rules, regulations and designations made pursuant thereto. Such enforcement shall be by such legal or equitable proceedings including without limitation a proceeding for specific performance, brought in the name of the County of Dutchess as may be provided or authorized by law.

SECTION 6. Penalties. Any person who violates this local law shall be guilty of an offense and subject to a fine of not more than Five Hundred (\$500) and/or imprisonment for not more than fifteen (15) days and/or suspension or revocation of collecting, receiving, transporting and/or disposing privileges in conjunction with solid waste within the County of Dutchess. Each and every act of disposal committed which is prohibited by Section 4 hereof shall constitute a separate violation of this local law.

SECTION 7. Priority. Pursuant to Section 1 of Chapter 675 of the Laws of 1982 of the State of New York, this local law takes precedence over and shall supercede any inconsistent provisions of any local law enacted by any municipality within the County of Dutchess.

SECTION 8. Separability. If any section, provision, or part thereof, in this local law, or the application thereof to any person or circumstances, is adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the remainder of the local law or the validity of the local law as a whole or any sections, provisions, or part thereof, not so adjudged invalid or unconstitutional and the application of the local law or any section, provision or part thereof, to other persons or circumstances shall not be affected by said adjudication.

SECTION 9. Effective Date. This local law shall take effect immediately.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village
on 19..... in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 84..
County
City
of the Town of Dutchess was duly passed by the County Legislature
Town
Village
on December 29 19 83. and was approved by the County Executive
not disapproved
repassed after disapproval
Elective Chief Executive Officer *
and was deemed duly adopted on January 16 1984., in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village
on 19..... not disapproved
and was approved by the Elective Chief Executive Officer *
repassed after disapproval
on 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19....., in accordance with the applicable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village
on 19..... not disapproved
and was approved by the Elective Chief Executive Officer *
repassed after disapproval
on 19..... Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
..... 19....., in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special}_{general} election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

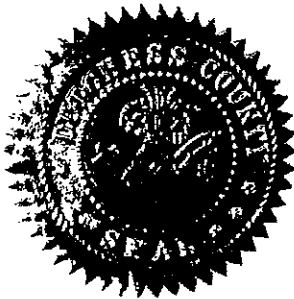
I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph²..... above.

Patricia J. D. Lander
Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: January 19, 1984



(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF
DUTCHESS

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

My Wing
.....
County Attorney
.....
Title

Date: January 19, 1984

County
City of
Town
Village

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
~~City~~ ofDutchess.....
~~Town~~
~~Village~~

Local Law No.4..... of the year 19 90.....

A local law ..Providing For The Mandatory Collection And Disposition Of.....
(Insert title)
Recyclables in Dutchess County

Be it enacted by theCounty Legislature..... of the
(Name of Legislative Body)

County
~~City~~ of ..Dutchess..... as follows:
~~Town~~
~~Village~~

BE IT ENACTED by the County Legislature of the County of Dutchess,
State of New York, as follows:

Section 1. Purpose.

Whereas, the conservation, recovery, and reuse of recyclable materials is now a necessity in order to conserve natural resources, reduce the impact of the ever increasing cost of solid waste disposal, ensure safe processing of solid waste, help maximally reduce the quantity of solid waste that must be disposed of and preserve capacity at solid waste management/resource recovery facilities, it is the intent of the Dutchess County Legislature to establish a resource recovery system which includes the mandatory separation of recyclable material from solid waste in the county.

The purpose of this local law of the County of Dutchess is to regulate as a proper governmental function, the separation of recyclable material from the solid waste by persons within the county.

Section 2. Statutory Authority for Local Law.

This local law is adopted pursuant to Section 10 of the Municipal Home Rule Law, (Section 2047-t(3) of the Public Authorities Law) and Local Law #1 of 1984, it being the intent of this Legislature that both Local Laws should provide a comprehensive regulation of the solid waste stream in the county. Nothing in this local law shall be deemed to conflict with or supersede Local Law #1 of 1984.

Section 3. Definitions.

As used in this local law, the following terms shall have the following meanings:

(If additional space is needed, please attach sheets of the same size as this and number each)

"Agency" shall mean the Dutchess County Resource Recovery Agency created under Chapter 675 of the Laws of 1982 of the State.

"Aluminum Products" shall mean uncontaminated aluminum packaging, such as pie plates and frozen dinner trays.

"Cans" shall mean containers comprised of aluminum, tin, steel, or a combination thereof, which contain or formerly contained only food and/or beverage substances.

"Cardboard" shall mean all corrugated cardboard normally used for packing, mailing, shipping or containerizing goods, merchandise or other material, but excluding plastic, foam or wax-coated or soiled cardboard.

"Commingled" shall mean source separated, non-putrescible, non-contaminated recyclable materials that have been placed in the same container.

"Commissioner" shall mean the Commissioner of Solid Waste Management of the County.

"County" shall mean the entire County of Dutchess as constituted and existing under the Laws of the State.

"Economic Markets" shall mean instances in which the full avoided costs of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, transportation and sale of said materials less the amount received from the sale of said material.

"Garbage" shall mean putrescible animal, fish, fowl, fruit or vegetable waste incident to and resulting from the use, preparation, cooking and consumption of food.

"Glass" shall mean all products made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for the packaging or bottling of various matter and all other material commonly known as glass excluding, however, ceramics, light bulbs, blue and flat glass and glass commonly known as window glass.

"Major appliances" shall mean large and/or bulky household appliances (refrigerator, washer, dryer, stove, etc.) ordinarily operated by gas or electric current.

"Municipality" shall mean any county, city, town, village, improvement district (or a county, city, town or village acting on behalf of an improvement district), public benefit corporation, municipal corporation, political subdivision, government agency, department or bureau of the state or federal government.

"Newspaper" shall mean all uncontaminated paper commonly referred to as newsprint and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinion and containing advertisements and other matter of public interest, and shall include supplements, comics and enclosures.

"Office paper" shall mean all bond paper including computer print-outs, stationery, photo copy, and ledger from commercial waste generators.

"Person" shall mean any natural person, individual, partnership, co-partnership, association, owner or manager of a business, commercial or industrial establishment, joint venture, corporation, trust, estate or any other legal entity inclusive of a municipality or any other waste generator.

"Plastic" shall mean all containers made from high density polyethylene or polyethylene terephthalate (PET) including, but not limited to bottles having contained the following products: milk, water, juice, detergent, bleach, antifreeze and soda; or

other resins that may be designated as a recyclable material in accordance with this law once economic markets exists.

"Recyclable commercial and industrial by-products" shall include all materials which are by-products of production utilized in production or sale after sale by a commercial enterprise or industrial enterprise.

"Recyclable material" shall mean office paper, cardboard, newspaper, cans, glass, and plastic, aluminum products, tires, major appliances and such other materials as may be designated by the Commissioner and the Recyclables Oversight Committee in accordance with this law.

"Recyclables Oversight Committee" means the committee established and appointed pursuant to this local law.

"Recyclers" shall mean those who deal with recyclable material both as collectors, separators and marketers. This definition shall include not-for-profit corporations and charitable corporations which collect recyclables for fund raising purposes.

"Recycling" shall mean any process by which materials, which would otherwise become solid waste, are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

"Solid waste" shall mean all materials or substances discarded or rejected within the County of Dutchess as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including, but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form special nuclear or by-product material within the meaning of the United States Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the Commissioner of Environmental Conservation pursuant to Section 27-0903 of the Environmental Conservation Law of the State.

"Solid waste management-resource recovery facility" shall mean any facility, plant, works, system, building, structure, improvement machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for the collecting, receiving, transporting, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of Section 51-0903 of the Environmental Conservation Law of the State of New York.

"Source separation" means the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

"State" shall mean the State of New York.

"Uncontaminated" shall mean free of materials that are not recyclable or free of materials that, if present, either reduce the value of a recyclable material or render it unrecyclable.

"Vehicular tires" shall mean tires from cars and trucks and their casings.

"Yard Waste" shall mean grass clippings, leaves, and cuttings from shrubs, hedges, trees, brush and garden debris.

Section 4. Designation or Removal of Recyclable Materials.

In addition to the recyclable materials defined in Section 3 of this law, the Commissioner, subject to Section 17 of this local law, shall be authorized to designate recyclable materials to be separated from other solid waste or to remove previously designated recyclable materials from the list of recyclable materials.

If removal of the recyclable material is based upon the lack of an economic market for the material in accordance with Section 120-aa of the General Municipal Law, then the Commissioner shall conduct such studies as he deems necessary and proper to establish the lack of an economic market, and shall state specifically in the notice of his action removing the recyclable material and the grounds for his action and shall make all studies upon which his determination is based. Such designation or removal shall be made in writing, published in the Environmental News Bulletin and the official newspapers of the County, and shall take effect thirty (30) days after such publication.

Section 5. Program Established.

A program is hereby established for the mandatory source separation of recyclable materials within the County. All persons shall separate recyclable materials from solid waste before either setting out solid waste for collection pursuant lawful procedure or disposing of it at an authorized solid waste management/resource recovery facility.

Section 6. Preparation, Separation, and Ownership of Recyclable Materials.

(a) The Commissioner, from time to time, may promulgate rules and regulations specifying requirements for preparation of recyclable materials. Such rules and regulations shall be promulgated in accordance with Section 16 hereof. All persons shall prepare recyclable materials in accordance with the Commissioner's rules and regulations.

(b) All recyclable materials shall be placed in a separate container or containers.

(c) Once deposited in the containers, all recyclable materials become the property of the county.

Section 7. Recycling of source separated materials.

(a) Upon the effective date of this Local Law after adequate notice has been published, posted and publicized for a garbage and refuse district or for a particular collection area, all persons in the county shall separate recyclable materials for the purposes of collection and recycling. Where permitted by the rules or regulations of a municipality or private hauler, different types of recyclable materials may be commingled.

(b) No person shall dispose of recyclable materials except as directed by the Commissioner pursuant to this Local Law, or, if the Commissioner has not acted, the Municipality.

(c) The Commissioner may, from time to time, as required, alter, delete, or add designated recyclables based on market availability, technology or other factors, subject to Section 17 of this law.

(d) Source separated recyclable material placed for collection shall be collected and retained separately from garbage and shall be transported to a solid waste management - resource recovery facility/or facilities as designated by the Commissioner of Solid Waste Management, as more fully set forth herein.

(e) All collectors of designated source separated solid waste shall be responsible for proper collection of recyclable

materials that have been separated at the point of generation and the collector of such recyclable materials shall be responsible for transporting such recyclable materials to a designated solid waste management/resource recovery facility as shall be determined by the Commissioner.

(f) All solid waste management/resource recovery facilities, whether municipal or private, shall provide adequate facilities for the acceptance of recyclable materials and further, no such facility or collector shall accept solid waste unless the materials designated by the Commissioner as recyclable materials are separated therefrom.

(g) Nothing in this Local law shall be deemed to make it unlawful to dispose of recyclables by means of donating them to a recycler.

Section 8. Private Drop-off Program for Multi-Domicile Buildings and Complexes.

(a) There is hereby established a program ("private drop-off program") for the source separation and delivery to a recycling drop-off of recyclable materials from all residents of apartment complexes, condominium complexes, cooperative apartments, hotels, motels, bungalow or resort colonies.

(b) The owner of and manager of every multi domicile building or complex, within the county shall provide and maintain, in a neat and sanitary condition, recycling drop-off(s) to receive all recyclable materials generated by residents of the building or complex. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the recycling drop-off(s). It shall be the tenant's responsibility to separate designated recyclable materials from the solid waste and deposit the recyclables in the facilities provided by the owner.

(c) The owner or manager of every multi domicile building or complex shall arrange for the collection for recycling of all recyclable materials from said drop-offs.

Section 9. Reporting to Commissioner.

All collectors of recyclables shall be required to keep and maintain records reflecting the tons of recyclable materials collected and to report the results of such collection to the Commissioner on a quarterly basis.

Section 10. Regulated Waste Haulers and Collectors.

Any waste hauler licensed under the provisions of Local Law #1 of 1984 and the Rules and Regulations of the Commissioner of Solid Waste Management shall be subject to the provisions of this Local Law.

Section 11. Designated Solid Waste Management Facilities.

The Commissioner is hereby delegated the authority to designate appropriate solid waste management/resource recovery facilities for the purposes of recyclable materials processing and disposition. A person shall deliver recyclable materials only to a solid waste management/resource recovery facility designated by the Commissioner. However, if no facility is designated, the collector of a particular recyclable material may deliver recyclable material to an appropriate facility.

Section 12. Separation and Collection of Tires and Major Household Appliances.

Deleted.

Section 13. Preparation and Disposal of Residential Yard Waste.

(a) All yard waste shall be separated from solid waste. It shall be unlawful to place such material in a solid waste management-resource recovery facility.

(b) Each city, town and/or village within the county may provide, or obtain rights in, a site for the disposal of residential yard waste.

(c) Yard waste may be composted at a site or sites designated by the municipality or at a facility as may from time to time be designated by the Commissioner of Solid Waste Management.

(d) This section shall not prohibit private composting, or onsite disposal in compliance with any existing law, of yard waste by any individual.

Section 14. Unlawful Activities; Nuisances.

It shall be unlawful for:

(1) Any person, other than those persons authorized, to collect any recyclable material which has been placed at the curb or roadside for collection or within a recycling drop-off pursuant to this law, or to scavenge or remove any articles from any containers.

(2) Any person to violate or to assist in the violation of any provision of this law.

(3) Any person to place or to cause to be placed any material other than a recyclable material in or near a recycling drop-off.

(4) Any person to hinder, to obstruct, to prevent or to interfere with the county or any other authorized persons in the performance of any duty under this local law or in the enforcement of this local law.

(5) Any person to commingle in a landfill or other solid waste management-resource recovery facility, any designated recyclable with solid waste.

(6) Any person to operate a landfill or other solid waste management-resource recovery facility without adequate provisions for the collection of source separated recyclable materials.

(7) Any person to dispose of or place tires, yard waste or household appliances (white goods) in a landfill or other solid waste management-resource recovery facility.

Section 15. Enforcement: Penalties for Persons Violating.

(a) Any person who violates this Local Law shall be guilty of an offense and subject to a fine. Conviction of a first offense provided by this article shall be punishable by a fine of fifty dollars (\$50), and in addition, anyone convicted of a first offense hereunder shall be liable to pay a civil penalty of fifty dollars (\$50). Conviction of a second offense within a year of the first offense shall be punishable by a fine of one hundred dollars (\$100), and in addition anyone convicted of a second offense thereunder shall be liable to pay a civil penalty of one hundred (\$100), and in addition anyone convicted of a subsequent offense thereunder shall be liable to pay a civil penalty of one thousand dollars (\$1000). Where applicable, a person who violates this Local Law may be subject to suspension or revocation of collecting, receiving, transporting and/or disposing privileges in conjunction with solid waste disposed within the county.

(b) Each and every act of disposal committed which is prohibited hereunder shall be deemed a separate violation of this Local Law.

Section 16. Rules and Regulations.

The commissioner may from time to time by resolution promulgate rules and regulations consistent with the provisions of this Local Law in order to effect the purposes thereof. The procedure for rule making shall be as follows:

(a) The proposed rules or synopsis thereof shall be published twice in the official newspapers of the County. Such publications shall contain a notice of public hearing, which shall be held by the Commissioner at a convenient facility open to the public on no less than 30 days notices;

(b) the Commissioner shall prepare the record of the public hearing and shall prepare a document responding to the comments received by the Commissioner at the public hearing. The record of public comment and the response document shall be made available for public review;

(c) the final rules, or synopsis thereof, shall be published in the same manner as the proposed rules no less than 10 days after the response document is made available for public review. The final rules shall take effect 20 days after publication.

Section 17. Recyclables Oversight Committee.

A committee consisting of not more than seven (7) members to be appointed by the Dutchess County Legislature and the County Executive is hereby created and established for the purpose of advising the Commissioner of Solid Waste Management regarding adding or removing materials from the definition of recyclable materials; establishing procedures and operating standards for municipal recyclable material collection points; monitoring the progress toward meeting the percent reduction goals established in the 1988 State Law; and such other matters as the commissioner or committee may suggest. Three members shall be appointed by the County Executive; three members shall be appointed by the County Legislature and one member shall be appointed jointly by the County Executive and County Legislature. The members of the oversight committee shall consist of an appointee from the following:

- (1) Resource Recovery Agency Ad Hoc Recycling Committee;
- (2) Town Supervisor's Association;
- (3) Environmental Committee of the County Legislature;
- (4) Carting Industry;
- (5) Environmental Management Council;
- (6) County Mayor's Association
- (7) Group of Local Recycling Coordinators in the County.

The above mentioned appointments shall be for a three year term from the date of appointment. No member shall serve more than two full three year terms. A chairman shall be elected by the members of the oversight panel at its first regular meeting and the panel shall adopt operating by-laws as they deem appropriate. The committee shall meet at least quarterly and the majority of the members shall constitute a quorum. Any recommendation issued by the committee shall be approved by a majority of its membership. The commissioner shall request and receive the recommendation and approval of the committee before he orders the removal or the addition of any material from designation as a recyclable material, except that if such recommendation and approval is not received within thirty days after request by the commissioner he may act without such recommendation.

Section 18. Separability.

If any section, provision, or part thereof, in this Local Law, or the application thereof to any person or circumstances, is adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the remainder of the Local Law or the validity of the Local Law as a whole of any sections, provisions, or part thereof, not so adjudged invalid or unconstitutional and the application of the Local Law or any section, provision or part thereof, to other persons or circumstances shall not be affected by said adjudication.

Section 19. Priority.

Pursuant to Section 1 of Chapter 675 of the Laws of 1982 of the State of New York, this local law takes precedence over and

shall supersede any inconsistent provisions of any local law enacted by any municipality within the county.

Section 20. Effective Date.

This local law shall be effective throughout the county on January 1, 1991, except that this local law shall not be effective with regard to recyclable materials generated by commercial establishments until July 1, 1991. For the purposes of this section, the term "commercial establishments" means businesses which are operated for profit.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village

on 19 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village

on 19 not disapproved
and was approved by the Elective Chief Executive Officer*
repassed after disapproval

and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village

on 19 not disapproved
and was approved by the Elective Chief Executive Officer*
repassed after disapproval

on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19, in accordance with the applicable
annual
provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. .. A of 1990.....
County
~~City~~
of the ~~Town~~ of ..Dutchess... was duly passed by theCounty Legislature.....
~~Village~~ (Name of Legislative Body)

on June 11 19 90.... not disapproved
and was approved by the .County Executive.....
~~repassed after disapproval~~ Elective Chief Executive Officer*

on ... July 5 19 90 Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of August 20, 19 90
in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

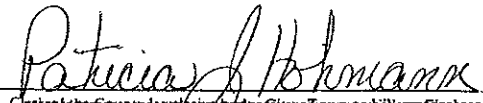
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of ~~§36~~^{§37} of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ~~special~~^{general} election held on 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.



~~Clerk of the County of Dutchess, State of New York~~
~~Official Seal of the County of Dutchess, State of New York~~

Clerk of the Legislative Body

Date: August 20, 1990

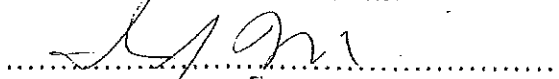
(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF ...DUTCHESS.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Ian MacDonald

..... County Attorney.....

Title

Date: August 20, 1990

County

~~CNY~~
~~NY~~
~~NY~~

of ...Dutchess.....